

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 644 - SB 621

March 19, 2019

SUMMARY OF ORIGINAL BILL: Provides that in any proceeding to suspend, terminate, or discipline an employee in state service, the state has the burden to prove by a preponderance of the evidence that the employee violated state law or a rule or policy of the state agency prior to taking such action.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005991): Deletes all language after the enacting clause. Provides that in a Step I, Step II, and Step III appeal proceeding the state agency has the burden to prove by a preponderance of evidence that a state law, rule, or policy was not violated with respect to the complaint.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- In *Tennessee Department of Correction v. Pressley*, 528 S.W.3d 506, the Supreme Court of Tennessee held that under the TEAM Act, Public Chapter 800 of the Public Acts of 2012, a state employee does not have protected property interest in his or her continued employment, Id. at 519. The court also held that in actions to suspend, terminate, or discipline a state employee, the employee has the ultimate burden of proof. Id. at 523.
- The proposed legislation overturns the *Pressley* decision and places the ultimate burden of proof on the state and effectively gives a state employee a protected property interest in continued employment.
- The proposed legislation will not significantly impact the policies or operations of state departments and agencies.
- Under the TEAM Act, an employee's employment ceases upon termination. Under the proposed legislation, the employee would remain employed until the appeals process is complete.

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- It is assumed that positions terminated under the TEAM Act are filled after a relatively short period of time. Therefore, the proposed legislation will not significantly impact state expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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